

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

<b>ANIBAL ORRICO, et al.,</b> <i>Plaintiffs,</i>	: : : : : : : : : :	<b>CIVIL ACTION</b>
<b>v.</b>		
<b>ABC CAPITAL INVESTMENTS LLC, et al.,</b> <i>Defendants.</i>	: :	<b>NO. 22-cv-03960</b>

# MEMORANDUM

**KENNEY, J.**

**DECEMBER 20, 2022**

On October 5, 2022, a Complaint was filed (ECF No. 1) and Summons was issued as to Defendants (ECF No. 2). The Summons returned as to Ricardo Scattolini (ECF No. 8), 447 International Realty LLC (ECF No. 9), IPP Baltimore LLC (ECF No. 10), ABC Capital Miami LLC (ECF No. 11), ABC Management Baltimore LLC (ECF No. 12), and 447 Management LLC (ECF No. 13) included proof of delivery by Certified Mail rather than Certified Mail Restricted Delivery. The delivery slips were executed by unidentified individuals and, due to the requirements of Certified Mail as opposed to Certified Mail Restricted Delivery, it is unclear whether the recipients were authorized agents of the Defendants.

Plaintiffs filed a Request for Default against 477 International Realty LLC, 477 Management LLC, ABC Capital Miami LLC, and Ricardo Scattolini on December 13, 2022 (ECF No. 14). Plaintiffs filed a Request for Default against ABC Management Baltimore LLC and IPP Baltimore LLC filed on December 15, 2022 (ECF No. 15).

Fed. R. Civ. P. 4(e), which applies to both individual and corporate Defendants (through Fed. R. Civ. P. 4(h)(1)(A)), does not permit service by mail unless it is authorized by state law of “the state where the district court is located [(Pennsylvania)] or where service is made [(Florida or Maryland)].” In Pennsylvania, Rule 404 provides that original process may be made outside

the Commonwealth in accordance with Rule 403. However, Rule 403 only permits service by Certified Mail Restricted Delivery, not Certified Mail alone. Rule 404 further provides that original process may be made in the manner provided by the law of the jurisdiction in which the service is made. The Florida Rules of Civil Procedure, in turn, provide for service of process by certified mail, but only if the Defendant agrees to waive personal service. Fla. R. Civ. P. 1.070(i). Florida courts have held that service by certified mail, without an accompanying waiver, is not sufficient under Rule 1.070. *Transport & General Ins. Co. v. Receiverships of Ins. Exch. Of the Americas, Inc.*, 576 So.2d 1351, 1352 (Fla. 1st DCA 1991). Maryland provides that service is permitted by mail only when sent via Certified Mail Restricted Delivery. Md. R. Civ. P. 3-121(a). Accordingly, Plaintiffs have not satisfied their duty to serve Defendants and an Entry of Default would be improper.

**BY THE COURT:**

**/s/ Chad F. Kenney**

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**CHAD F. KENNEY, JUDGE**